

UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

DENNIS CLAYPOOL, individually ) Civil No. CV04 00570 ACK KSC  
and as Guardian Ad Litem for )  
KRISTEN CLAYPOOL, a minor, ) DEPOSITION OF  
SHERYL CLAYPOOL, SCOTT ) DAVID WOOLLEY  
CLAYPOOL, and KRISTEN CLAYPOOL) March 29, 2005  
1:30 p.m.

Plaintiffs,

vs.

CAPTAIN ANDY'S SAILING, INC., )  
BLUE DOLPHIN CHARTERS, LTD. )  
and BLUE DOLPHIN DIVING, INC., )

Defendants.

MATTHEW ISHAM, individually ) Civil No. CV04-00559 ACK KSC  
and as Guardian Ad Litem for )  
HAYDEN ISHAM, a minor, )  
ROXANNE BEST ISHAM, )

Plaintiffs,

vs.

BLUE DOLPHIN CHARTERS, LTD. )  
and BLUE DOLPHIN DIVING, LTD., )  
CAPTAIN ANDY'S SAILING, INC., )

Defendants.

In the Matter of ) Civil No. CV05-00017 HG LEK  
The Complaint of CAPTAIN )  
ANDY'S SAILING, INC., a Hawaii )  
corporation, as pro hac vice )  
owner, and EVANS PACIFIC, LTD, )  
a Hawaii corporation, as owner )  
of M/V SPIRIT OF KAUAI, O.N. )  
995776, for exoneration from )  
or limitation of liability. )

-continued-

EXHIBIT

9

-continued-

IN THE MATTER OF THE COMPLAINT) Civil No. CV05-00037 HG BMK  
OF THE BLUE DOLPHIN CHARTERS, )  
LTD. AND TERRY DONNELLY AS )  
OWNERS OF THE VESSEL M/V BLUE )  
DOLPHIN, O/N 1082212, FOR )  
EXONERATION FROM AND/OR )  
LIMITATION OF LIABILITY. )

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DEPOSITION OF DAVID WOOLLEY

Taken on behalf of Plaintiffs Dennis Claypool, individually  
and as guardian ad litem for Kristen Claypool, a minor,  
Sheryl Claypool, Scott Claypool, and Kristen Claypool at  
Pacific Guardian Center, Conference Room B for use by  
Pacific Reporting Services Unlimited, Suite 1470, Makai  
Tower, 733 Bishop Street, Honolulu, Hawaii, commencing at  
1:30 p.m. on March 29, 2005, pursuant to Notice.

Transcribed by: WILLIAM T. BARTON, RPR, CSR #391  
Court Reporter, State of Hawaii

PACIFIC REPORTING SERVICES UNLIMITED  
Suite 1470, Makai Tower  
733 Bishop Street  
Honolulu, Hawaii 96813  
(808) 524-PRSU

1 know?

2 A. I met her at the hospital.

3 Q. How about his daughter, Kristen?

4 A. Yes.

5 Q. And his son, Scott?

6 A. Yes.

7 Q. Did Scott accompany you over to the Pride of  
8 Aloha?

9 A. Yes.

10 Q. Now, have you spoken with Dennis Claypool at any  
11 time since the accident?

12 A. No.

13 Q. How about with Scott Claypool?

14 A. No.

15 Q. How about with Cheryl?

16 A. No.

17 Q. How about with Kristen?

18 A. No.

19 Q. Have any of the Claypools ever suggested by word  
20 or deed that they felt that Dennis Claypool was in any way  
21 responsible for what happened?

22 A. No.

23 Q. Do you know Matt Isham? He's not here. I was  
24 pointing to his attorney.

25 A. I know who he is now.

1 Q. Was Mr. Isham in the group?

2 A. Yes.

3 Q. Could you see blood in the water?

4 A. Yes.

5 Q. How badly did Mr. Claypool seem to be injured?

6 A. Seemed to be injured pretty bad.

7 Q. What injury caused you the most concern?

8 A. Well, he was the first injury that I saw. And it  
9 appeared that his arm was really badly damaged. I got him  
10 up on board. But Mr. Isham was my major concern, because  
11 he was instructing us to prepare a tourniquet, as he knew  
12 that he had lost a limb or was losing blood, lost blood in  
13 the water.

14 Q. I know that counsel asked you about Mr. Isham.  
15 Let me ask you about Mr. Claypool. I apologize for this,  
16 but this is my only opportunity to do so, and it's my  
17 obligation.

18 Which of Mr. Claypool's arms was injured, as you  
19 recall events?

20 A. I don't recall.

21 Q. Left? Right?

22 A. I can't tell you. I can't tell you.

23 Q. The injury, as you observed it to his arm, what  
24 did it appear to be?

25 A. It appeared to be a really deep, deep cut in the

1 upper -- I believe it was upper area, up in here.

2 Q. The bicep?

3 A. Yes.

4 Q. Was it cut to the bone?

5 A. It appeared to be.

6 Q. Was it bleeding profusely?

7 A. Yes.

8 Q. Did he also have a wound to his forehead?

9 A. I don't recall.

10 Q. Do you recall any wounds other than the dramatic  
11 one on his arm?

12 A. No. The dramatic one I was the most concerned  
13 with.

14 Q. Did somebody apply a tourniquet to that?

15 A. First tried to direct pressure on that one.

16 Q. Did that succeed?

17 A. That did not succeed.

18 Q. Who tried that?

19 A. That was a guy named --

20 Q. Was it Mr. Trout?

21 A. I believe it might have been, yeah. Who is that?  
22 Is that the --

23 Q. The kayaker?

24 A. The kayaker, I believe it was, yeah.

25 Q. Who was first aboard the vessel between

1 A. I'd say probably 30 or 40 minutes.

2 Q. During that period of time --

3 A. 30 minutes.

4 Q. -- did you actually identify the diver whose arm  
5 was injured as Dennis Claypool?

6 A. Yes.

7 Q. Did you realize that the divers had come from the  
8 Blue Dolphin?

9 A. Yes.

10 Q. Did you contact the Blue Dolphin to tell them  
11 that you had Mr. Claypool aboard?

12 A. Yes.

13 Q. You identified Dennis Claypool to the skipper of  
14 the Blue Dolphin --

15 A. Actually, I did not contact the Blue Dolphin. I  
16 was calling the Pride of Aloha at the time. And our crew  
17 was getting the ladders up and attending to the victims.  
18 And we instructed the -- their water safety guy, the kayak  
19 guy, to let their captain know that we were heading out  
20 to -- we were leaving. We weren't sticking around.

21 Q. Who besides Mr. Claypool and his son, Scott, and  
22 Mr. Isham took the trip out to the Pride of Aloha? I don't  
23 mean your passengers. I mean which Blue Dolphin  
24 passengers.

25 A. I don't believe there were any crew members.

1 Q. You sent Mr. Trout back to the Blue Dolphin?

2 A. Yes.

3 Q. So --

4 A. Because he had, the daughter was the other diver,  
5 I believe. And he was taking her back to the boat.

6 Q. Okay. At any point before discharging  
7 Mr. Claypool at the Pride of Aloha, did you ever radio the  
8 Blue Dolphin to advise them who you had aboard, and who was  
9 injured?

10 A. I believe I did.

11 Q. Do you remember doing that over the radio?

12 A. I believe I tried to get ahold of them. I  
13 believe I didn't get an answer back.

14 Q. And you called them on which channel?

15 A. Channel 16.

16 Q. 16, I gather, is reserved for Coast Guard or  
17 emergency use, typically?

18 A. Yes. Everybody monitors Channel 16 while they're  
19 out there.

20 Q. After you get somebody's attention on Channel 16  
21 for nonemergency, they transfer you to another channel?

22 A. Yes.

23 Q. 13? 12?

24 A. Most companies use 10.

25 Q. But all of your communications about this

1 A. From Na Pali.

2 Q. Was she north of your position?

3 A. I don't know.

4 Q. Was she able to help in any way?

5 A. No.

6 Q. How about the Akialoa? Was she able to help in  
7 any way?

8 A. No.

9 Q. All right. How about the Blue Dolphin? Was the  
10 Blue Dolphin able to assist in any way in the rescue?

11 A. I never heard from them.

12 Q. And they never responded to your calls?

13 A. No.

14 Q. The Coast Guard, what did they instruct you to  
15 do?

16 A. They wanted to know the nature of the injuries.  
17 And they wanted to know if they could -- they wanted to  
18 know what I was going to do. And I told them what I was  
19 going to do. I made contact with the Pride of Aloha.

20 Q. Who initially hailed the Pride of Aloha?

21 A. I did.

22 Q. And were you able to get through to them right  
23 away?

24 A. Yes.

25 Q. On 16?



1 speak over the cell phone about this incident?

2 A. I don't know if I talked with anybody on the cell  
3 phone.

4 Q. During the 30 or 40 minutes that you had  
5 Mr. Claypool aboard, between the time you picked him up and  
6 discharged him at the Pride of Aloha, did he appear to be  
7 in pain?

8 A. Yeah.

9 Q. Severe pain, was he not?

10 A. Yes.

11 Q. Do you recall his complaining that the tourniquet  
12 was hurting a lot?

13 A. No.

14 Q. Were you able to do anything for his pain, other  
15 than apply the tourniquet?

16 A. No.

17 Q. You couldn't -- you didn't have any morphine or  
18 any painkillers aboard?

19 A. No.

20 Q. When you got to the Pride of Aloha, how far  
21 offshore was she?

22 A. I would say half a mile, maybe a mile. Probably  
23 a mile.

24 Q. During that 30 or 40 minute trip, were you  
25 concerned that the wounds from the two divers you took

1 aboard may be mortal?

2 A. Yes.

3 Q. You wanted to get there as quickly as possible?

4 A. Yes.

5 Q. The wounds were bad enough that you thought  
6 unless you got them right away, they could be fatal?

7 A. Yes.

8 Q. When you got to the Pride of Aloha, was she  
9 anchored or lying to or underway?

10 A. She was lying to.

11 Q. And when you say "lying to," in other words, she  
12 wasn't moored, she had just come to a stop, come to a halt?

13 A. She had come to as much of a halt as she could.

14 Q. What were the seas like out there?

15 A. They were moderate. No whitecaps or anything  
16 like that.

17 Q. Was there a swell?

18 A. Did have a little bit of -- not swell, more of a  
19 boat wake from the boat not coming to a complete stop.

20 Q. When I use the phrase "rolling moment" or  
21 "pitching moment" or "heaving moment," do you know what I'm  
22 talking about?

23 A. Yes.

24 Q. The Pride of Aloha, how big is that vessel?

25 A. I don't know. 600 feet?

## CERTIFICATE

STATE OF HAWAII )

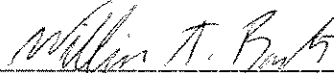
) SS.

COUNTY OF HONOLULU )

I, WILLIAM T. BARTON, RPR, Certified Shorthand Reporter, State of Hawaii, do hereby certify that on March 29, 2005 at 1:30 p.m. there appeared before me DAVID WOOLLEY, the witness whose deposition is contained herein; and that prior to being examined was duly sworn; that I am neither counsel for any of the parties herein, nor interested in any way in the outcome of this action;

That the deposition herein was by me taken down in machine shorthand and thereafter reduced to print via computer-aided transcription under my supervision; that the foregoing represents a complete and accurate transcript of the testimony of said witness to the best of my ability.

Dated this 7th day of April 2005 at Honolulu, Hawaii.



WILLIAM T. BARTON, CSR No. 391

Notary Public, State of Hawaii

My Commission expires August 7, 2005